

### **REMARKS**

The Office Action mailed on February 24, 2005 has been given careful consideration by applicant. Reconsideration of the application is respectfully requested in view of the amendments and comments herein.

#### **The Office Action**

Claims 3-4, 8-9, 13-14 and 19-20 have been objected to as being dependent on rejected base claims.

Claims 1 and 2 have been rejected under the judicially created doctrine of obviousness-type double patenting over claims 12-13 of copending application 09/965,922 in view of Schettini et al. ("Color Image Classification Using Tree Classifiers").

Claim 16 has been rejected under the judicially created doctrine of obviousness-type double patenting over claims 12-13 of copending application 09/965,922.

Claims 3-4, 7-9, 12-14 and 19-20 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-2, 5-6, 10-11 and 15 have been rejected under 35 U.S.C. §102(b) as being anticipated by Schettini et al. ("Color Image Classification Using Tree Classifiers").

Claims 16 and 17 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Schettini et al. in view of Revankar et al. (US 5,767,978).

#### **Allowable Subject Matter**

Applicant's representative acknowledges with appreciation the examiner's indication that claims 3-4, 8-9, 13-14 and 19-20 would be allowable if recast in independent form to include the limitations of respective base claims and intervening claims. Independent claims 1 and 10 have been amended herein to incorporate the limitations of claims 4 and 13, respectively. Independent claims 5 and 16 have been amended to include various novel limitations of claims 9 and 19, respectively. Applicant reserves the right to recast independent claims 5 and 16 to include all the limitations of claims 9 and 19 at a later date, if needed. However, in view of a teleconference with the examiner on Monday, May 23, 2005, it is believed that the amendments and comments herein place independent claims 5 and 16 in condition for allowance.

In view of the foregoing, the objection to claims 3-4, 8-9, 13-14 and 19-20 should be withdrawn.

### **The Obviousness-Type Double Patenting Rejections**

Claims 1 and 2 have been rejected under the judicially created doctrine of obviousness-type double patenting over claims 12-13 of copending application 09/965,922 in view of Schettini et al. ("Color Image Classification Using Tree Classifiers"), and claim 16 has been rejected under the judicially created doctrine of obviousness-type double patenting over claims 29-30 of copending application 09/965,922. This rejection should be withdrawn for at least the following reasons. A terminal disclaimer, pursuant to 37 CFR 1.130(b), has been submitted herewith, rendering this rejection moot.

### **The 35 U.S.C. §112, Second Paragraph, Rejection**

Claims 3-4, 7-9, 12-14 and 19-20 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This rejection should be withdrawn for at least the following reasons. The subject claims have been amended to cure the indefiniteness indicated by the Examiner. Accordingly, this rejection should be withdrawn.

### **The Anticipation Rejection**

The Examiner has rejected claims 1-2, 5-6, 10-11 and 15 under 35 U.S.C. 102(b) as being anticipated by Schettini et al. ("Color Image Classification Using Tree Classifiers"). The rejection of the subject claims should be withdrawn for at least the following reasons.

As noted supra, independent claims 1 and 10 have been amended herein as recommended by the examiner to incorporate the limitations of claims 4 and 13, respectively. As a consequence, claims 4 and 13 have been cancelled. These amendments render the rejection of claims 1-3 and 10-13 moot.

Independent claims 5 and 15 have been amended herein to further emphasize novel aspects already presented in various other claims of the application as filed. No new matter has been added, and the amendments do not necessitate further search by the examiner. The amendments include incorporating the algorithms for the two-

dimensional color discreteness features and/or the three-dimensional color discreteness feature into the subject claims. It is believed the amendments place claims 5-9 and 15 in condition for allowance. Therefore, it is respectfully requested that this rejection be withdrawn.

#### **The Obviousness Rejection**

The Examiner has rejected claims 16 and 17 under 35 U.S.C. §103(a) as being unpatentable over Schettini et al. in view of Revankar et al. (US 5,767,978). This rejection should be withdrawn for at least the following reasons. Independent claim 16 has been amended herein to incorporate limitations of original claim 19 in order to further emphasize the algorithm used by the binary classifier. It is believed that these amendments place claims 16-20 in condition for allowance.

#### **Newly Added Claims**

Claims 21 and 22 have been newly added to further emphasize various aspects recited in originally filed claims. Since these limitations were already searched by the examiner, the amendments do not add new matter or necessitate further search. Entry and allowance of these claims is kindly requested.

**CONCLUSION**

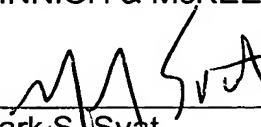
For the reasons detailed above, it is respectfully submitted that all claims remaining in the application are now in condition for allowance.

Respectfully submitted,

FAY, SHARPE, FAGAN,  
MINNICH & McKEE, LLP

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Date

  
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Mark S. Svat  
Reg. No. 34,261  
1100 Superior Avenue  
7<sup>th</sup> Floor  
Cleveland, Ohio 44114-2579  
(216) 861-5582